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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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In the Matter of

Amendment of Rules Governing  
800 MHz Specialized Mobile Radio  
Service Systems to Permit the  
Licensing of Wide-Area Block  
Authorizations

RM - 8117

To: The Commission

REPLY  
OF THE  
AMERICAN MOBILE TELECOMMUNICATIONS  
ASSOCIATION, INC.

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS  
ASSOCIATION, INC.

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The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.405 of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully submits its reply comments in the above-entitled matter.<sup>1/</sup> Based on the favorable record in this proceeding, AMTA urges the Commission to adopt a Notice of Proposed Rule Making ("NPR") consistent with the views expressed herein at the earliest possible date.

#### I. INTRODUCTION

The Comments on AMTA's Petition to establish rules for the block licensing of wide-area Specialized Mobile Radio ("SMR") Service systems clearly evidence broad support for that concept. Commenting parties which operate SMR systems, such as Fleet Call, Inc., as well as organizations whose membership is open to SMR licensees, specifically the National Association of Business and Educational Radio, Inc. ("NABER") and the Council of Independent Communication Suppliers ("CICS"), concur that AMTA's "Blueprint" for the next generation SMR regulatory scheme can form the basis for an NPR on this matter. Even the Utilities Telecommunications Council ("UTC") did not oppose the AMTA proposal, but recommended that SMR licensees converting to higher capacity digital technology pursuant to block authorizations discontinue their use of inter-category 800 MHz Industrial/Land Transportation Pool frequencies.

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<sup>1/</sup> Petition for Rule Making, Report No. 1918, released November 20, 1992 ("Petition").

Although supportive of AMTA's proposal generally, the Comments in this proceeding also include certain suggestions or alternative approaches to those described in AMTA's Petition. The Association appreciates the recommendations which will advance its objective of facilitating the implementation of wide-area, advanced technology SMR systems and, as discussed below, encourages the FCC to incorporate them in its NPR on this matter.

## II. DISCUSSION

In its Petition, AMTA identified five criteria which guided its proposal for advanced technology, wide-area SMR systems. Petition pp.4-5. The Association specified that any SMR block licensing system must:

- 1) facilitate the natural evolution toward wide-area SMR systems, yet maintain mechanisms to preserve an adequate level of competition;
- 2) encourage participation by all interested SMR operators, not only the largest operators;
- 3) permit system licensing and oversight without undue delay or difficulty;
- 4) permit flexibility in system design and frequency plan; and
- 5) encompass areas of sufficient geographic size to accommodate inter-related commercial markets without sacrificing a reasonable level of regional competition.

None of the commenting parties debated the validity of AMTA's criteria. Their objections or recommendations instead appear to suggest that alternative approaches would better satisfy those objectives. In some instances, those alternatives

were described. In others, the party simply expressed dissatisfaction with the Association's proposed approach.<sup>2/</sup>

AMTA has reviewed each of these Comments carefully. As detailed below, it agrees with certain suggestions and recommends their adoption in the NPR. In other cases, AMTA either disagrees with the proposal or finds the objection so undefined as to be unanswerable.

The discussion in the Comments centered on three general areas:

- A) what geographic area should be included within wide-area SMR block licenses;
- B) what frequencies should be available for SMR block license applicants; and
- C) what technical and implementation requirements should be applied to SMR block licensees?

**A) Geographic Area for Block Licenses**

Fleet Call and CICS support AMTA's recommendation that SMR block licenses should follow the MSA/RSA market definition.<sup>3/</sup> Both recognize that, in an imperfect world, those geographic

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<sup>2/</sup> AMTA is particularly puzzled by NABER's cautions to the FCC that the proposal may not provide adequate safeguards for licensees that wish to continue providing traditional dispatch services, and its exhortation that the FCC maintain the status quo for those licensees. If NABER had been specific in describing how it believes AMTA's Petition fails to recognize the needs of traditional licensees in what is unquestionable a rapidly evolving environment, AMTA would have had an opportunity to address those concerns. Since the Association's proposal is permissive rather than mandatory, and since it is inclusive, not exclusive, NABER's cautions appear to be misplaced.

<sup>3/</sup> Fleet Call Comments p. 9; CICS Comments p. 3.

parameters have the advantage of being reasonable for the purpose and known to the FCC and the industry.

NABER disagrees. It recommends that wide-area SMR applicants be permitted to define their proposed markets by identifying the "footprint" of already operational analog systems, an approach equivalent to that used today by applicants for wide-area SMR waivers.<sup>4/</sup> It states that this more flexible approach would be superior to the cellular MSA/RSA scheme and would avoid the artificial DFA-like boundary limitations which inhibited development of the 900 MHz SMR market.<sup>5/</sup>

In structuring the regulatory Blueprint described in its Petition, AMTA considered, but rejected, NABER's preferred approach to wide-area market definitions. It did so because a more defined system will be necessary to permit the FCC to identify and select among applicants for the same frequencies in the same geographic area without creating extensive "daisy chains" of mutual exclusivity.

AMTA agrees that the current system of permitting applicant-defined footprints of geographic coverage provides maximum flexibility. It is a viable approach when, as in the current situation, mutually exclusive applications are not typically submitted on the same day. Applicants for wide-area

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<sup>4/</sup> NABER Comments pp. 7-9.

<sup>5/</sup> The FCC limited 900 MHz SMR applications to sites within geographically defined Designated Filing Areas, or DFAs. Public Notice, Private Land Mobile Applications Procedures for Spectrum in the 896-901 MHz and 935-940 MHz Bands, 1 FCC Rcd 543 (1986).

SMR waivers file their requests when dictated by individual business considerations and only a limited number of parties have had the wherewithal to do so at all. The FCC has been able to consider them on a first-come first-served basis.<sup>6/</sup>

By contrast, AMTA assumes that any rules adopted in this proceeding to permit the issuance of block SMR licenses will become effective on a date certain. It is reasonable to anticipate that multiple mutually exclusive applicants will file on that effective date requesting such authorizations. If applicants are permitted freely to define their coverage areas, the FCC will first have to compare the proposed frequencies and geographic coverage of each applicant to determine where overlaps exist. It will then need to adopt a mechanism for selecting among such applicants and for segmenting their applications into discrete areas of mutual exclusivity. That process alone would significantly slow the implementation of advanced technology wide-area systems.

For that reason, AMTA opted for what NABER describes as the more "mechanical, mathematical procedure" described in its Petition.<sup>7/</sup> The Association appreciates that its approach has somewhat less flexibility than the current waiver system. Nonetheless, NABER's analogy to the 900 MHz DFAs is not

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<sup>6/</sup> There are two simultaneously-filed wide-area waiver requests with some common frequencies in overlapping geographic areas currently pending at the FCC. It is not clear how the Commission intends to act on those requests.

<sup>7/</sup> NABER Comments p. 11.

applicable. Unlike the 900 MHz procedures, 800 MHz wide-area applicants would be free to apply in any and all MSAs or RSAs in which they operate systems. They would be required to submit individual filings for each market but, if successful, would be free to integrate those facilities into a single network. To the extent that other qualified applicants secure the rights to desired frequencies in those markets, the parties would presumably reach a mutually acceptable business arrangement.

Although this approach may be less than ideal from the perspective of larger operators with interests across numerous MSA/RSA boundaries, it does not preclude them from participating in all areas of interest and should promote regional competition.<sup>8/</sup> AMTA cannot recommend retention of the current method applicable to waivers without a clearly defined mechanism for addressing the problem of incongruent mutual exclusivity, an issue which NABER fails to address.<sup>9/</sup>

**B) Frequencies Available for Block Licenses**

Several parties had suggestions regarding the frequencies which should be included in SMR block licenses. CICS and Fleet Call specifically support AMTA's recommendation that only

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<sup>8/</sup> NABER's approach would favor substantially the largest operators in each area. It appears antithetical to NABER's objection that AMTA's Blueprint does not adequately safeguard the interests of smaller operators.

<sup>9/</sup> Fleet Call's proposal that mutually exclusive applicants for block licenses in areas of spectrum availability be selected via competitive bidding rather than lotteries would not resolve that problem and continues to be prohibited by the Communications Act. Fleet Call Comments pp. 10-11.

constructed, operational frequencies be eligible for inclusion in a block applicant's request.<sup>10/</sup> That requirement will minimize speculation and reward the legitimate SMR operator already providing a valued and valuable service to the radio using public.

However, CICS also suggests that no harm will result from permitting conventional SMRs from securing 800 MHz spectrum where available,<sup>11/</sup> as opposed to AMTA's proposal that all non-trunked applicants be assigned 900 MHz frequencies except under specified circumstances. Petition p. 8, FN 13. CICS' reservations in that respect are unexplained. The Association remains convinced that the FCC will facilitate the fullest possible development of advanced technology 800 MHz systems by directing non-trunked applicants to 900 MHz frequencies unless a requirement for 800 MHz spectrum has been justified.

As noted earlier, UTC argues that SMR block licensing should be coupled with the relinquishment of any Industrial/Land Transportation frequencies assigned pursuant to inter-category sharing provisions.<sup>12/</sup> UTC intimates that the uses to which those frequencies are put by Industrial/Land Transportation eligibles are superior in importance to that which could be achieved in a "commercial" operation.

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<sup>10/</sup> CICS Comments p. 3; Fleet Call Comments.

<sup>11/</sup> CICS Comments p. 4.

<sup>12/</sup> UTC Comments pp. 4-5.



AMTA has no desire to deprive UTC members of needed frequencies. However, the inter-category sharing rules at and below 800 MHz are predicated on an assumption that unused frequencies should be made available to those who have substantiated a need for them. To the extent that the implementation of advanced technology creates excessive amounts of SMR capacity in markets where Industrial/Land Transportation eligibles are unable to secure sufficient spectrum to satisfy critical requirements, AMTA is confident that the FCC will properly address any imbalance.<sup>13/</sup>

NABER concurs with AMTA's proposal that at least one 42 channel SMR block license be made available in rural areas.<sup>14/</sup> In that regard, however, NABER also references its Comments in RM-7985, Fleet Call's Innovator Block proposal, in which NABER recommended the use of General Category, rather than SMR, channels for rural wide-area SMR authorizations. It is unclear whether that same recommendation is being advanced in the instant

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<sup>13/</sup> The Association would note, however, that the FCC does not typically reward implementation of advanced technologies by taking back already justified spectrum.

<sup>14/</sup> NABER Comments p. 10. NABER also recommends that the FCC continue to use the existence of a wait list to distinguish urban from rural markets, but suggests that the area considered urban be expanded from the current 100-mile radius by some unspecified amount. AMTA appreciates, but does not agree with, NABER's desire to retain the existing urban/rural delineation, particularly if the urban parameters are expanded. Frequency availability can increase significantly even in areas relatively close to wait list market. AMTA anticipates that more precise evaluation proposed herein will more accurately reflect actual levels of frequency availability.

proceeding or how such a proposal could be reconciled with the interests of non-SMR Pool eligibles.

**C. Technical and Implementation Requirements for SMR Block Licenses**

Fleet Call disagrees with AMTA's proposed minimum level of capacity improvement. Rather than permitting block licensing with only a two times increase in capacity over state-of-the-art analog technology, Fleet Call would mandate a minimum six time efficiency improvement.<sup>15/</sup>

In AMTA's opinion, the appropriate spectrum efficiency improvements will be dictated by the marketplace. The Association anticipates that competitive pressures from entities with vastly greater spectrum resources, such as cellular and PCS operators, will mandate the implementation of highly efficient technologies. The FCC need only establish a minimum benchmark as a qualifying standard since market forces will then prevail.

Additionally, both NABER and CICS recommend specific system implementation requirements for SMR block licensees.<sup>16/</sup> AMTA suggests that this area be explored more fully in the NPR, including an evaluation of NABER's recommended conditions as detailed in its Reply Comments in PR Docket No. 92-210. The Association anticipates supporting any reasonable implementation schedule which recognizes both the current unavailability of advanced technology 800 MHz equipment and the fact that the

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<sup>15/</sup> Fleet Call Comments pp. 9-10.

<sup>16/</sup> NABER Comments p. 13; CICS Comments pp. 4-5.

frequencies concerned are already operational and providing service to the public.

Finally, AMTA concurs with NABER's suggestion that short-spacing of frequencies by wide-area applicants should require prior notification to co-channel users.<sup>17/</sup> The block licensee should be permitted to operate a facility upon notification to the FCC if concurrence is obtained from all short-spaced licensees. Formal FCC approval of the request would be required if the co-channel licensee(s) did not concur.

### **III. CONCLUSION**

The SMR industry clearly supports adoption of an NPR which will facilitate the implementation of wide-area, advanced technology SMR systems. AMTA's Petition proposes such a regulatory scheme. With appropriate modification, as described herein, it can function as a Blueprint for the evolution of the SMR industry. AMTA urges the Commission to proceed expeditiously in adopting an NPR consistent with the positions proposed herein.

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<sup>17/</sup> NABER Comments pp. 12-13.

**CERTIFICATE OF SERVICE**

I, M.A. Spinks, a secretary in the law office of Lukas, McGowan, Nace & Gutierrez, hereby certify, that I have on this 5th day of January, 1993, placed in the United State mail, first class postage prepaid a copy of the foregoing **COMMENTS** to the following:

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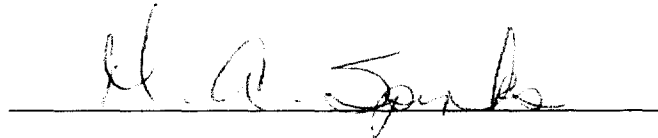
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